



Australian Capital Territory

# Criminal Code (Serious Drug Offences) Amendment Act 2004

A2004-56

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Australian Capital Territory

# **Criminal Code (Serious Drug Offences) Amendment Act 2004**

**A2004-56**

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An Act to amend the *Criminal Code 2002*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## **1 Name of Act**

This Act is the *Criminal Code (Serious Drug Offences) Amendment Act 2004*.

## **2 Commencement**

This Act commences on a date fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

## **3 Legislation amended**

This Act amends the *Criminal Code 2002*.

*Note* This Act also amends other legislation (see sch 1).

## **4 Chapter 5**

*relocate as chapter 8 and renumber section 425 as section 800*

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**5 New chapter 6***insert***Chapter 6 Serious drug offences****Part 6.1 Interpretation for ch 6****600 Definitions for ch 6**

In this chapter:

***cannabis*** means a substance consisting of or containing—

- (a) the fresh or dried parts of a cannabis plant, other than goods that consist completely or mainly of cannabis fibre; or
- (b) tetrahydrocannabinol.

***cannabis plant*** means a plant of the genus *Cannabis*.

***commercial quantity***—see section 601.

***conceal*** a thing includes conceal or disguise—

- (a) the nature, source or location of the thing; or
- (b) any movement of the thing; or
- (c) someone's rights in relation to the thing; or
- (d) the identity of any owner of the thing.

***controlled drug*** means a substance prescribed under the regulations as a controlled drug, but does not include a growing plant.

***controlled plant*** means a growing plant prescribed under the regulations as a controlled plant, and includes a seedling of the plant.

***controlled precursor*** means a substance prescribed under the regulations as a controlled precursor.

***cultivates***—see section 615.

***cultivation***—see section 615.

***large commercial quantity***—see section 601.

***manufacture***—see section 606.

***manufactures***—see section 606.

***possession*** of a thing includes the following:

- (a) receiving or obtaining possession of the thing;
- (b) having control over the disposition of the thing (whether or not having custody of the thing);
- (c) having joint possession of the thing.

***prepare*** a drug for supply includes pack the drug or separate the drug into discrete units.

***sell*** includes—

- (a) barter or exchange; and
- (b) give to someone in the belief that the person will provide property or services in return at a later time, whether by agreement or otherwise; and
- (c) agree to sell.

***supply*** includes—

- (a) supply by way of sale or otherwise; and
- (b) agree to supply.

*traffic* in a controlled drug—see section 602.

*trafficable quantity*—see section 601.

*transport* includes deliver.

**601 Meaning of *trafficable quantity*, *commercial quantity* and *large commercial quantity***

(1) In this chapter:

*commercial quantity* means—

- (a) for a controlled drug—a quantity of the drug that is not less than the quantity prescribed under the regulations as a commercial quantity of the drug; and
- (b) for a controlled plant—a quantity of the plant that is not less than the quantity prescribed under the regulations as a commercial quantity of the plant; and
- (c) for a controlled precursor—a quantity of the precursor that is not less than the quantity prescribed under the regulations as a commercial quantity of the precursor.

*large commercial quantity* means—

- (a) for a controlled drug—a quantity of the drug that is not less than the quantity prescribed under the regulations as a large commercial quantity of the drug; and
- (b) for a controlled plant—a quantity of the plant that is not less than the quantity prescribed under the regulations as a large commercial quantity of the plant; and
- (c) for a controlled precursor—a quantity of the precursor that is not less than the quantity prescribed under the regulations as a large commercial quantity of the precursor.

***trafficable quantity*** means—

- (a) for a controlled drug—a quantity of the drug that is not less than the quantity prescribed under the regulations as a trafficable quantity of the drug; and
  - (b) for a controlled plant—a quantity of the plant that is not less than the quantity prescribed under the regulations as a trafficable quantity of the plant.
- (2) For this chapter, a trafficable, commercial or large commercial quantity of a controlled drug in a mixture of substances is, subject to the regulations—
- (a) if the prosecution elects to establish the quantity of the drug in the mixture—the relevant quantity of the drug worked out by reference to the quantity (if any) prescribed under the regulations for the pure form of the drug; and
  - (b) if the prosecution elects to establish the quantity of the mixture instead of the quantity of the drug in the mixture—the relevant quantity of the mixture worked out by reference to the quantity (if any) prescribed under the regulations for a mixture containing the drug.

## **Part 6.2                      Trafficking in controlled drugs**

### **602            Meaning of *trafficking***

For this chapter, a person ***traffics*** in a controlled drug if the person—

- (a) sells the drug; or
- (b) prepares the drug for supply—
  - (i) with the intention of selling any of it; or
  - (ii) believing that someone else intends to sell any of it; or

- (c) transports the drug—
  - (i) with the intention of selling any of it; or
  - (ii) believing that someone else intends to sell any of it; or
- (d) guards or conceals the drug with the intention of—
  - (i) selling any of it; or
  - (ii) helping someone else to sell any of it; or
- (e) possesses the drug with the intention of selling any of it.

### **603 Trafficking in controlled drug**

- (1) A person commits an offence if the person traffics in a large commercial quantity of a controlled drug.

Maximum penalty: imprisonment for life.

- (2) Absolute liability applies to the circumstance that the quantity trafficked in was a large commercial quantity.

- (3) A person commits an offence if the person traffics in a commercial quantity of a controlled drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (4) Absolute liability applies to the circumstance that the quantity trafficked in was a commercial quantity.

- (5) A person commits an offence if the person traffics in a trafficable quantity of cannabis.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

- (6) Absolute liability applies to the circumstance that the quantity trafficked in was a trafficable quantity.

- (7) A person commits an offence if the person traffics in a controlled drug other than cannabis.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

- (8) A person commits an offence if the person traffics in cannabis.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

**604 Trafficking offence—presumption if trafficable quantity possessed etc**

- (1) If, in a prosecution for an offence against section 603, it is proved that the defendant—

- (a) prepared a trafficable quantity of a controlled drug for supply; or
- (b) transported a trafficable quantity of a controlled drug; or
- (c) guarded or concealed a trafficable quantity of a controlled drug; or
- (d) possessed a trafficable quantity of a controlled drug;

it is presumed, unless the contrary is proved, that the defendant had the intention or belief about the sale of the drug required for the offence.

*Note* A defendant bears a legal burden of proving that the defendant did not have the intention or belief mentioned in this subsection (see s 59 (c)).

- (2) This section does not apply to a single charge under section 629 (Single offence for trafficking etc on different occasions) if the conduct on each occasion to which the charge relates did not involve a trafficable quantity of the controlled drug.

**605 Complicity, incitement and conspiracy offences do not apply to buyers of drugs**

A person does not commit any of the following offences only because the person bought or intended to buy a controlled drug from someone else:

- (a) an offence under section 45 (Complicity and common purpose);
- (b) an offence against section 47 (Incitement);
- (c) an offence against section 48 (Conspiracy).

*Note* For additional offences relating to possessing controlled drugs, see the *Drugs of Dependence Act 1989*, pt 10.

**Part 6.3 Manufacturing controlled drugs and precursors****606 Meaning of *manufacture***

In this chapter:

***manufacture***—the ***manufacture*** of a substance is any process by which the substance is produced (other than the cultivation of a plant), and includes the process of—

- (a) extracting or refining it; or
- (b) transforming it into a different substance.

***manufactures***—a person ***manufactures*** a substance if the person—

- (a) engages in its manufacture; or
- (b) exercises control or direction over its manufacture; or
- (c) provides or arranges finance for its manufacture.

**607 Manufacturing controlled drug for selling**

- (1) A person commits an offence if the person manufactures a large commercial quantity of a controlled drug—
- (a) with the intention of selling any of it; or
  - (b) believing that someone else intends to sell any of it.

Maximum penalty: imprisonment for life.

- (2) Absolute liability applies to the circumstance that the quantity manufactured was a large commercial quantity.
- (3) A person commits an offence if the person manufactures a commercial quantity of a controlled drug—
- (a) with the intention of selling any of it; or
  - (b) believing that someone else intends to sell any of it.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (4) Absolute liability applies to the circumstance that the quantity manufactured was a commercial quantity.
- (5) A person commits an offence if the person manufactures a controlled drug—
- (a) with the intention of selling any of it; or
  - (b) believing that someone else intends to sell any of it.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

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**608 Manufacturing offence—presumption if trafficable quantity manufactured**

If, in a prosecution for an offence against section 607 (Manufacturing controlled drug for selling), it is proved that the defendant manufactured a trafficable quantity of a controlled drug, it is presumed, unless the contrary is proved, that the defendant had the intention or belief about the sale of the drug required for the offence.

**609 Manufacturing controlled drug**

A person commits an offence if the person manufactures a controlled drug.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

**610 Selling controlled precursor for manufacture of controlled drug**

- (1) A person commits an offence if the person sells a large commercial quantity of a controlled precursor believing that the person to whom it is sold, or someone else, intends to use any of it to manufacture a controlled drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (2) Absolute liability applies to the circumstance that the quantity sold was a large commercial quantity.

- (3) A person commits an offence if the person sells a commercial quantity of a controlled precursor believing that the person to whom it is sold, or someone else, intends to use any of it to manufacture a controlled drug.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

- (4) Absolute liability applies to the circumstance that the quantity sold was a commercial quantity.
- (5) A person commits an offence if the person sells a controlled precursor believing that the person to whom it is sold, or someone else, intends to use any of it to manufacture a controlled drug.

Maximum penalty: 700 penalty units, imprisonment for 7 years or both.

**611 Manufacturing controlled precursor for manufacture of controlled drug**

- (1) A person commits an offence if the person manufactures a large commercial quantity of a controlled precursor—
  - (a) with the intention of manufacturing a controlled drug; and
  - (b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (2) Absolute liability applies to the circumstance that the quantity manufactured was a large commercial quantity.
- (3) A person commits an offence if the person manufactures a large commercial quantity of a controlled precursor—
  - (a) with the intention of selling any of it to someone else; and
  - (b) believing that the other person intends to use it to manufacture a controlled drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (4) Absolute liability applies to the circumstance that the quantity manufactured was a large commercial quantity.

- (5) A person commits an offence if the person manufactures a commercial quantity of a controlled precursor—
- (a) with the intention of manufacturing a controlled drug; and
  - (b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

- (6) Absolute liability applies to the circumstance that the quantity manufactured was a commercial quantity.

- (7) A person commits an offence if the person manufactures a commercial quantity of a controlled precursor—

- (a) with the intention of selling any of it to someone else; and
- (b) believing that the other person intends to use it to manufacture a controlled drug.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

- (8) Absolute liability applies to the circumstance that the quantity manufactured was a commercial quantity.

- (9) A person commits an offence if the person manufactures a controlled precursor—

- (a) with the intention of manufacturing a controlled drug; and
- (b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 700 penalty units, imprisonment for 7 years or both.

- (10) A person commits an offence if the person manufactures a controlled precursor—
- (a) with the intention of selling any of it to someone else; and
  - (b) believing that the other person intends to use it to manufacture a controlled drug.

Maximum penalty: 700 penalty units imprisonment for 7 years or both.

**612 Possessing controlled precursor**

- (1) A person commits an offence if the person possesses a large commercial quantity of a controlled precursor—
- (a) with the intention of using any of it to manufacture a controlled drug; and
  - (b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (2) Absolute liability applies to the circumstance that the quantity possessed was a large commercial quantity.
- (3) A person commits an offence if the person possesses a commercial quantity of a controlled precursor—
- (a) with the intention of using any of it to manufacture a controlled drug; and

- (b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

- (4) Absolute liability applies to the circumstance that the quantity possessed was a commercial quantity.
- (5) A person commits an offence if the person possesses a controlled precursor—
  - (a) with the intention of using any of it to manufacture a controlled drug; and
  - (b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 700 penalty units, imprisonment for 7 years or both.

**613 Supplying substance, equipment or instructions for manufacturing controlled drug**

- (1) A person commits an offence if the person supplies to someone else any substance, any equipment, or any document containing instructions for manufacturing a controlled drug—
  - (a) believing that the other person intends to use it to manufacture a controlled drug; and
  - (b) with the intention of selling any of the manufactured drug or believing that the other person or someone else intends to sell any of the manufactured drug.

Maximum penalty: 700 penalty units, imprisonment for 7 years or both.

- (2) A person commits an offence if the person possesses any substance, any equipment, or any document containing instructions for manufacturing a controlled drug—
- (a) with the intention of supplying it to someone else; and
  - (b) believing that the other person intends to use it to manufacture a controlled drug; and
  - (c) with the intention of selling any of the manufactured drug or believing that the other person or someone else intends to sell any of the manufactured drug.

Maximum penalty: 700 penalty units, imprisonment for 7 years or both.

**614 Possessing substance, equipment or instructions for manufacturing controlled drug**

A person commits an offence if the person possesses any substance, any equipment, or any document containing instructions for manufacturing a controlled drug—

- (a) with the intention of using it to manufacture a controlled drug; and
- (b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

*Note* For additional offences relating to possessing controlled drugs, see the *Drugs of Dependence Act 1989*, pt 10.

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## Part 6.4 Cultivating controlled plants

### 615 Meaning of *cultivate*

In this chapter:

*cultivates*—a person *cultivates* a plant if the person—

- (a) engages in its cultivation; or
- (b) exercises control or direction over its cultivation; or
- (c) provides or arranges finance for its cultivation.

*cultivation*, of a plant, includes—

- (a) planting a seed, seedling or cutting of the plant or transplanting the plant; or
- (b) nurturing, tending or growing the plant; or
- (c) guarding or concealing the plant (including against interference or discovery by humans or natural predators); or
- (d) harvesting the plant (including picking any part of the plant or separating any resin or other substance from the plant).

*product*, of a plant, includes—

- (a) a seed of the plant; and
- (b) a part of the plant (whether live or dead); and
- (c) a substance separated from the plant.

### 616 Cultivating controlled plant for selling

- (1) A person commits an offence if the person cultivates a large commercial quantity of a controlled plant—
  - (a) with the intention of selling any of the plants or their products; or

- (b) believing that someone else intends to sell any of the plants or their products.

Maximum penalty: imprisonment for life.

- (2) Absolute liability applies to the circumstance that the quantity cultivated was a large commercial quantity.
- (3) A person commits an offence if the person cultivates a commercial quantity of a controlled plant—
  - (a) with the intention of selling any of the plants or their products; or
  - (b) believing that someone else intends to sell any of the plants or their products.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (4) Absolute liability applies to the circumstance that the quantity cultivated was a commercial quantity.
- (5) A person commits an offence if the person cultivates a trafficable quantity of cannabis plants—
  - (a) with the intention of selling any of the plants or their products; or
  - (b) believing that someone else intends to sell any of the plants or their products.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

- (6) Absolute liability applies to the circumstance that the quantity cultivated was a trafficable quantity.

- 
- (7) A person commits an offence if the person cultivates a controlled plant (other than a cannabis plant)—
- (a) with the intention of selling it or any of its products; or
  - (b) believing that someone else intends to sell it or any of its products.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

- (8) A person commits an offence if the person cultivates a cannabis plant—
- (a) with the intention of selling it or any of its products; or
  - (b) believing that someone else intends to sell it or any of its products.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

**617 Cultivating offence—presumption if trafficable quantity cultivated**

If, in a prosecution for an offence against section 616 (Cultivating controlled plant for selling), it is proved that the defendant cultivated a trafficable quantity of a controlled plant, it is presumed, unless the contrary is proved, that the defendant had the intention or belief about the sale of the plant or its products required for the offence.

**618 Cultivating controlled plant**

- (1) A person commits an offence if the person cultivates a controlled plant other than a cannabis plant.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (2) A person commits an offence if the person—
- (a) cultivates (artificially or otherwise) 3 or more cannabis plants;  
or
  - (b) artificially cultivates 1 or 2 cannabis plants.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

*Note* Non-artificial cultivation of 1 or 2 cannabis plants is a summary offence under the *Drugs of Dependence Act 1989*, s 162.

- (3) In this section:

***artificially cultivate*** means—

- (a) hydroponically cultivate; or
- (b) cultivate with the application of an artificial source of light or heat.

### **619 Selling controlled plant**

- (1) A person commits an offence if the person sells a large commercial quantity of a controlled plant.

Maximum penalty: imprisonment for life.

- (2) Absolute liability applies to the circumstance that the quantity sold was a large commercial quantity.
- (3) A person commits an offence if the person sells a commercial quantity of a controlled plant.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (4) Absolute liability applies to the circumstance that the quantity sold was a commercial quantity.

- (5) A person commits an offence if the person sells a trafficable quantity of cannabis plants.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

- (6) Absolute liability applies to the circumstance that the quantity sold was a trafficable quantity.

- (7) A person commits an offence if the person sells a controlled plant other than a cannabis plant.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

- (8) A person commits an offence if the person sells a cannabis plant.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

**620 Supplying plant material, equipment or instructions for cultivating controlled plant**

- (1) A person commits an offence if the person supplies to someone else any controlled plant, any product of a controlled plant, any equipment, or any document containing instructions for cultivating a controlled plant—

- (a) believing that the other person intends to use it to cultivate a controlled plant; and
- (b) with the intention of selling any of the cultivated plant or believing that the other person or someone else intends to sell any of the cultivated plant.

Maximum penalty: 700 penalty units, imprisonment for 7 years or both.

- (2) A person commits an offence if the person possesses any controlled plant, any product of a controlled plant, any equipment, or any document containing instructions for cultivating a controlled plant—
- (a) with the intention of supplying it to someone else; and
  - (b) believing that the other person intends to use it to cultivate a controlled plant; and
  - (c) with the intention of selling any of the cultivated plant or believing that the other person or someone else intends to sell any of the cultivated plant.

Maximum penalty: 700 penalty units, imprisonment for 7 years or both.

**621 Possessing plant material, equipment or instructions for cultivating controlled plant**

A person commits an offence if the person possesses any controlled plant, any product of a controlled plant, any equipment, or any document containing instructions for cultivating a controlled plant—

- (a) with the intention of using it to cultivate controlled plants; and
- (b) with the intention of selling any of the cultivated plants or their products or believing that someone else intends to sell any of the cultivated plants or their products.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

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## Part 6.5 Drug offences involving children

### 622 Supplying controlled drug to child for selling

- (1) A person commits an offence if—
- (a) the person—
    - (i) supplies a commercial quantity of a controlled drug to a child; or
    - (ii) possesses a commercial quantity of a controlled drug with the intention of supplying any of the drug to a child; and
  - (b) the person does so believing that the child intends to sell any of the drug.

Maximum penalty: imprisonment for life.

- (2) Absolute liability applies to—
- (a) the circumstance that the quantity supplied or possessed was a commercial quantity; and
  - (b) the circumstance that the person to whom the controlled drug was supplied or intended to be supplied was a child.
- (3) A person commits an offence if—
- (a) the person—
    - (i) supplies a controlled drug to a child; or
    - (ii) possesses a controlled drug with the intention of supplying any of the drug to a child; and

- (b) the person does so believing that the child intends to sell any of the drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

- (4) Absolute liability applies to the circumstance that the person to whom the controlled drug was supplied or intended to be supplied was a child.
- (5) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant—
  - (a) considered whether or not the person to whom the controlled drug was supplied or intended to be supplied was a child; and
  - (b) had no reasonable grounds for believing that the person was a child.

*Note* A reference to an offence against a Territory law includes a reference to a related ancillary offence (see Legislation Act, s 189).

**623 Supplying offence—presumption if trafficable quantity supplied etc**

- (1) If, in a prosecution for an offence against section 622 (Supplying controlled drug to child for selling), it is proved that the defendant—
  - (a) supplied a trafficable quantity of a controlled drug to a child; or
  - (b) possessed a trafficable quantity of a controlled drug with the intention of supplying any of it to a child;

it is presumed, unless the contrary is proved, that the defendant had the belief about the sale of the drug by the child required for the offence.

- 
- (2) This section does not apply to a single charge under section 629 (Single offence for trafficking etc on different occasions) if the conduct on each occasion to which the charge relates did not involve a trafficable quantity of the controlled drug.

**624 Procuring child to traffic in controlled drug**

- (1) A person commits an offence if the person procures a child to traffic in a commercial quantity of a controlled drug.

Maximum penalty: imprisonment for life.

- (2) Absolute liability applies to—
- (a) the circumstance that the person procured was a child; and
  - (b) the circumstance that the quantity the child was procured to traffic in was a commercial quantity.
- (3) Subsection (1) applies whether the child was procured to traffic in a commercial quantity of a controlled drug on a single occasion or over a period.
- (4) A person commits an offence if the person procures a child to traffic in a controlled drug.
- Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.
- (5) Absolute liability applies to the circumstance that the person procured was a child.
- (6) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant—
- (a) considered whether or not the person procured was a child; and
  - (b) had no reasonable grounds for believing that the person was a child.

(7) In this section:

*procures* a child to traffic in a controlled drug—a person *procures* a child to traffic in a controlled drug if—

- (a) the person procures the child to sell the drug; or
- (b) the person, with the intention of selling any of the drug or believing that someone else intends to sell any of the drug, procures the child to prepare the drug for supply or to transport the drug; or
- (c) the person, with the intention of selling any of the drug or assisting someone else to sell any of the drug, procures the child to guard or conceal the drug.

**625 Supplying controlled drug to child**

(1) A person commits an offence if the person—

- (a) supplies a controlled drug other than cannabis to a child; or
- (b) possesses a controlled drug other than cannabis with the intention of supplying it to a child.

Maximum penalty: 2 000 penalty units, imprisonment for 20 years or both.

(2) A person commits an offence if the person—

- (a) supplies a trafficable quantity of cannabis to a child; or
- (b) possesses a trafficable quantity of cannabis with the intention of supplying it to a child.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

(3) Absolute liability applies to the circumstance that the quantity supplied or possessed was a trafficable quantity.

- 
- (4) A person commits an offence if the person—
- (a) supplies cannabis to a child; or
  - (b) possesses cannabis with the intention of supplying it to a child.
- Maximum penalty: 500 penalty units, imprisonment for 5 years or both.
- (5) For this section, absolute liability applies to the circumstance that the person to whom the drug was supplied, or intended to be supplied, was a child.
- (6) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant—
- (a) considered whether or not the person to whom the controlled drug was supplied or intended to be supplied was a child; and
  - (b) had no reasonable grounds for believing that the person was a child.

**626 Children not criminally responsible for offences against pt 6.5**

A child is not criminally responsible for an offence against this part.

*Note* A reference to an offence against a Territory law includes a reference to a related ancillary offence (see Legislation Act, s 189).

## **Part 6.6 General provisions for drug offences**

**627 Application of pt 6.6**

This part applies to offences against this chapter other than part 6.7 (Offences relating to property derived from drug offences).

**628 Carrying on business of trafficking**

- (1) This section applies to an offence against—
  - (a) section 603 (1) (which is about trafficking in a large commercial quantity of a controlled drug); or
  - (b) section 603 (3) (which is about trafficking in a commercial quantity of a controlled drug); or
  - (c) section 603 (5) (which is about trafficking in a trafficable quantity of cannabis); or
  - (d) section 622 (1) (which is about supplying a commercial quantity of a controlled drug to a child for selling).
- (2) For the application of this section to an offence against section 622 (1), a reference to trafficking in drugs is a reference to supplying drugs.
- (3) In a prosecution for an offence, the prosecution may establish that the defendant trafficked in the quantity of a controlled drug required for the offence (the *required quantity*), without proof of trafficking in the required quantity on a particular occasion, by establishing that—
  - (a) the person carried on a business of trafficking in controlled drugs; and
  - (b) the required quantity of the controlled drug (or a combination of controlled drugs) was trafficked over repeated transactions in the course of the business.
- (4) For a person's conduct to be the carrying on of a business, the trier of fact must be satisfied that the conduct establishes that the person was engaged in an organised commercial activity involving repeated transactions.

- 
- (5) In a prosecution in which this section is relied on—
- (a) it is not necessary for the prosecution to state or prove the exact date of each transaction or the exact quantity trafficked in each transaction; and
  - (b) the prosecution may not rely on a transaction if the defendant has already been tried and found guilty or acquitted of an offence against this chapter in relation to the transaction; and
  - (c) section 604 (Trafficking offence—presumption if trafficable quantity possessed etc) and section 623 (Supplying offence—presumption if trafficable quantity supplied etc) do not apply.
- (6) If the prosecution intends to rely on this section—
- (a) that fact must be stated in the charge; and
  - (b) a description of the conduct that establishes, under this section, that the defendant trafficked in the required quantity of a controlled drug must be stated in the charge or given to the defendant within a reasonable time before the trial.
- (7) If a person has been tried and found guilty or acquitted of an offence in a prosecution in which this section was relied on, the person may not be charged with another offence against this chapter that is claimed to have been committed in connection with any of the transactions on which the prosecution relied in that prosecution.
- (8) Except as mentioned in subsection (5) (b) or (7), this section does not prevent a person being charged with separate offences in relation to conduct on different occasions.

## **629 Single offence for trafficking etc on different occasions**

- (1) This section applies to an offence against this chapter that involves—
- (a) trafficking in controlled drugs on different occasions; or

(b) supplying controlled drugs to a child on different occasions;  
whether they are the same or different kinds of drugs.

- (2) A person may be charged with a single offence in relation to trafficking in or supplying controlled drugs on different occasions if each occasion was not longer than 7 days apart from another of the occasions.
- (3) For the single offence, the quantity of controlled drugs trafficked or supplied is the total of the quantities of the controlled drugs trafficked or supplied on the occasions stated in the charge.
- (4) However, the same parcel of controlled drugs cannot be counted more than once.

**Example**

A person possesses a parcel of a controlled drug for sale (the 1st occasion) and later sells the parcel to someone else (the 2nd occasion) who in turn sells it to another person (the 3rd occasion). The same parcel of controlled drugs has been trafficked on 3 occasions but the quantity of drugs in the parcel can only be counted once under this section.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) If the prosecution intends to rely on this section, particulars of each occasion must be stated in the charge.
- (6) This section does not prevent a person being charged with separate offences in relation to conduct on different occasions.

**630 Single offence for different parcels trafficked etc on the same occasion**

- (1) This section applies to an offence against this chapter that involves—
  - (a) trafficking in different parcels of controlled drugs on the same occasion; or

- 
- (b) manufacturing different parcels of controlled drugs on the same occasion; or
  - (c) selling different parcels of controlled precursors on the same occasion; or
  - (d) manufacturing different parcels of controlled precursors on the same occasion; or
  - (e) possessing different parcels of controlled precursors on the same occasion; or
  - (f) cultivating different parcels of controlled plants on the same occasion; or
  - (g) selling different parcels of controlled plants on the same occasion; or
  - (h) supplying different parcels of controlled drugs to a child on the same occasion;

whether they are the same or different kinds of drug, precursor or plant.

- (2) A person may be charged with a single offence in relation to 2 or more of the different parcels of controlled drugs, precursors or plants.
- (3) For the single offence, the quantity of controlled drugs, precursors or plants trafficked in, manufactured, sold, possessed, cultivated or supplied is the total of the quantities of the controlled drugs, precursors or plants in the different parcels.
- (4) However, if there are different kinds of controlled drugs, precursors or plants in the parcels, this section is subject to section 631.
- (5) If the prosecution intends to rely on this section, particulars of each parcel of controlled drugs, precursors or plants must be stated in the charge.

- (6) This section does not prevent a person being charged with separate offences in relation to different parcels of controlled drugs, precursors or plants.

**631 Single offence—working out quantities if different kinds of controlled drug etc involved**

- (1) This section applies if a person is charged with a single offence against this chapter that involves—
  - (a) trafficking in 2 or more kinds of controlled drug; or
  - (b) manufacturing 2 or more kinds of controlled drug; or
  - (c) selling 2 or more kinds of controlled precursor; or
  - (d) manufacturing 2 or more kinds of controlled precursor; or
  - (e) possessing 2 or more kinds of controlled precursor; or
  - (f) cultivating 2 or more kinds of controlled plant; or
  - (g) selling 2 or more kinds of controlled plant; or
  - (h) supplying 2 or more kinds of controlled drug to a child.
- (2) In a prosecution for the single offence—
  - (a) the quantity of drugs or plants is a trafficable quantity if the total of the required fractions of the trafficable quantity of each of the drugs or plants is 1 or more; or
  - (b) the quantity of drugs, precursors or plants is a commercial quantity if the total of the required fractions of the commercial quantity of each of the drugs, precursors or plants is 1 or more; or
  - (c) the quantity of drugs, precursors or plants is a large commercial quantity if the total of the required fractions of the large commercial quantity of each of the drugs, precursors or plants is 1 or more.

- (2) In this section, the *required fraction* of—
- (a) a trafficable quantity of a drug or plant is the actual quantity of the drug or plant divided by the smallest trafficable quantity of the drug or plant; and
  - (b) a commercial quantity of a controlled drug, precursor or plant is the actual quantity of the drug, precursor or plant divided by the smallest commercial quantity of the drug, precursor or plant; and
  - (c) a large commercial quantity of a controlled drug, precursor or plant is the actual quantity of the drug, precursor or plant divided by the smallest large commercial quantity of the drug, precursor or plant.
- (3) For a trafficable, commercial or large commercial quantity of a controlled drug—
- (a) the required fraction must be worked out on the basis of quantities of the drug in pure form; and
  - (b) the required fraction is zero if—
    - (i) the regulations do not prescribe a trafficable, commercial or large commercial quantity of the controlled drug; or
    - (ii) the regulations prescribe a trafficable, commercial or large commercial quantity for a mixture of substances containing the controlled drug but not for the drug in pure form; or
    - (iii) the regulations prescribe different forms of the controlled drug by reference to the percentage of a particular substance in the drug.

**632 Knowledge or recklessness about identity of controlled drugs, plants and precursors**

In a prosecution for an offence against this chapter that involves conduct relating to a controlled drug, plant or precursor, the prosecution—

- (a) must establish that the defendant knew or was reckless about whether the substance or plant was a controlled drug, plant or precursor; but
- (b) need not establish that the defendant knew or was reckless about the identity of the controlled drug, plant or precursor.

**633 Alternative verdicts—mistaken belief about identity of controlled drug, precursor or plant**

- (1) This section applies if, in a prosecution for an offence against this chapter that involves conduct relating to a trafficable, commercial or large commercial quantity of a controlled drug, precursor or plant, the trier of fact is satisfied that—
  - (a) at the time of the conduct, the defendant had considered, and was under a mistaken belief about, the identity of the controlled drug, precursor or plant; and
  - (b) if the mistaken belief had been correct, the defendant would have committed an offence against this chapter or the *Drugs of Dependence Act 1989*, part 10 for which the maximum penalty is the same as or less than the maximum penalty for the offence charged (the *alternative offence*).
- (2) The trier of fact may find the defendant not guilty of the offence charged but guilty of the alternative offence, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

- 
- (3) A defendant who claims to have considered, and been under a mistaken belief about, the identity of a drug, precursor or plant must prove that he or she was under that mistaken belief.

**634 Alternative verdicts—mistaken belief about quantity of controlled drug, precursor or plant**

- (1) This section applies if, in a prosecution for an offence against this chapter that involves trafficking, manufacturing or cultivating a trafficable, commercial or large commercial quantity of a controlled drug, precursor or plant, the trier of fact is satisfied that—
- (a) at the time of the conduct, the defendant had considered, and was under a mistaken belief about, the quantity of the controlled drug, precursor or plant trafficked, manufactured or cultivated; and
- (b) if the mistaken belief had been correct, the defendant would have committed an offence against this chapter or the *Drugs of Dependence Act 1989*, part 10 for which the maximum penalty is the same as or less than the maximum penalty for the offence charged (the *alternative offence*).
- (2) The trier of fact may find the defendant not guilty of the offence charged but guilty of the alternative offence, but only if the defendant has been given procedural fairness in relation to that finding of guilt.
- (3) A defendant who claims to have considered, and been under a mistaken belief about, the quantity of a drug or plant must prove that he or she was under that mistaken belief.

**635 Alternative verdicts—different quantities**

- (1) This section applies if, in a prosecution for an offence against this chapter that involves conduct relating to a trafficable, commercial or large commercial quantity of a controlled drug, precursor or plant, the trier of fact—

- (a) is not satisfied that the defendant committed the offence charged; but
  - (b) is satisfied beyond reasonable doubt that the defendant committed an offence against this chapter or the *Drugs of Dependence Act 1989*, part 10 involving a lesser quantity of a controlled drug, precursor or plant than the quantity required to establish the offence charged (a *lesser offence*).
- (2) The trier of fact may find the defendant not guilty of the offence charged but guilty of the lesser offence, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

**636 Alternative verdicts—trafficking and obtaining property by deception**

- (1) This section applies if, in a prosecution for an offence against section 603 (Trafficking in controlled drug)—
- (a) the trier of fact is satisfied beyond reasonable doubt that the defendant committed the offence charged or an offence against section 326 (Obtaining property by deception) but cannot decide which of the offences the defendant committed; or
  - (b) the trier of fact is not satisfied beyond reasonable doubt that the defendant committed the offence charged but is satisfied beyond reasonable doubt that the defendant committed an offence against section 326.

*Note* A reference to an offence against a Territory law includes a reference to a related ancillary offence (see Legislation Act, s 189).

- (2) The trier of fact must find the defendant guilty of the offence against section 326, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

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## Part 6.7                      Offences relating to property    derived from drug offences

### 637            **Meaning of *drug offence***

In this part:

*drug offence* means—

- (a) an offence against this chapter (other than this part); or
- (b) conduct in another jurisdiction that is an offence in that jurisdiction and would be an offence against this chapter (other than this part) if the conduct happened in the ACT; or
- (c) conduct before the commencement of this chapter that would be an offence against this chapter (other than this part) if the conduct happened after the commencement of this chapter.

### 638            **Property *directly* or *indirectly* derived from drug offence**

- (1) For this part, property is *directly derived* from a drug offence if the property—
  - (a) is all or part of the proceeds of a drug offence; or
  - (b) is completely or partly acquired by disposing of, or using, the proceeds of a drug offence.
- (2) The *proceeds* of a drug offence include the proceeds of any sale involved in committing the offence or any remuneration or other reward for committing the offence.
- (3) For this part, property is *indirectly derived* from a drug offence if the property—
  - (a) is completely or partly acquired by disposing of, or using, property directly derived from a drug offence; or

- (b) is completely or partly acquired by disposing of, or using, property indirectly derived from a drug offence (including property indirectly derived because of a previous operation of paragraph (a))
- (4) Property *directly derived* or *indirectly derived* from a drug offence does not include a controlled drug, plant or precursor.
- (5) Property *directly derived* or *indirectly derived* from a drug offence does not lose its identity as such only because it is deposited with a financial institution or other entity for credit to an account or for investment.

**639 Concealing etc property derived from drug offence**

A person commits an offence if—

- (a) the person—
  - (i) conceals property; or
  - (ii) transfers property to someone else; or
  - (iii) converts property; or
  - (iv) removes property from the ACT;knowing that the property is directly or indirectly derived from a drug offence; and
- (b) the person does so with the intention of evading or assisting someone else to evade—
  - (i) prosecution for a drug offence; or
  - (ii) the imposition or enforcement of a pecuniary penalty for a drug offence; or

- (iii) the making or enforcement of an order for the confiscation or forfeiture of property or any part of it.

Maximum penalty: imprisonment for 20 years, 2 000 penalty units or both.

#### **640 Receiving property directly derived from drug offence**

- (1) A person commits an offence if the person receives property—
  - (a) knowing that the property is directly derived from a drug offence committed by someone else; and
  - (b) without any legal entitlement to the property.

Maximum penalty: imprisonment for 7 years, 700 penalty units or both.

- (2) For this section, property to which a person is *legally entitled*—
  - (a) includes property received under a will or as a reasonable payment for the legal supply of goods and services received or in repayment of a lawful debt; but
  - (b) does not include property received completely or partly as a gift.

## **Part 6.8 Application of ch 6**

### **641 Uncertainty about when conduct engaged in**

- (1) This section applies if, in a prosecution for an offence against this chapter or the *Drugs of Dependence Act 1989*, part 10 as in force at any time before the commencement of this chapter—
  - (a) it is necessary for the trier of fact to decide when alleged conduct was engaged in by a person; and

- (b) the trier of fact is satisfied beyond reasonable doubt that the person engaged in the conduct but is not satisfied beyond reasonable doubt that—
  - (i) the alleged conduct was engaged in before the commencement of this chapter; or
  - (ii) the alleged conduct was engaged in on or after the commencement of this chapter.
- (2) The alleged conduct is taken to have been engaged in by the person before the commencement of this chapter.
- (3) This section expires 5 years after the day it commences.

## **6 Dictionary, new definitions**

*insert*

***cannabis***—see section 600.

***cannabis plant***—see section 600.

***commercial quantity***, for chapter 6 (Serious drug offences)—see section 601.

***conceal*** a thing, for chapter 6 (Serious drug offences)—see section 600.

***controlled drug***—see section 600.

***controlled plant***—see section 600.

***controlled precursor***—see section 600.

***cultivation***, for chapter 6 (Serious drug offences)—see section 615.

***cultivates***, for chapter 6 (Serious drug offences)—see section 615.

***directly derived***, for part 6.7 (Offences relating to property derived from drug offences)—see section 638.

**drug offence**, for part 6.7 (Offences relating to property derived from drug offences)—see section 637.

**indirectly derived**, for part 6.7 (Offences relating to property derived from drug offences)—see section 638.

**large commercial quantity**, for chapter 6 (Serious drug offences)—see section 601.

**manufacture**, for chapter 6 (Serious drug offences)—see section 606.

**manufactures**, for chapter 6 (Serious drug offences)—see section 606.

**possession** of a thing, for chapter 6 (Serious drug offences)—see section 600.

**prepare** a drug for supply, for chapter 6 (Serious drug offences)—see section 600.

**proceeds** of a drug offence for part 6.7 (Offences relating to property derived from drug offences)—see section 638.

**product**, of a plant, for chapter 6 (Serious drug offences)—see section 615.

**sell**, for chapter 6 (Serious drug offences)—see section 600.

**supply**, for chapter 6 (Serious drug offences)—see section 600.

**traffic** in a controlled drug—see section 602.

**trafficable quantity**, for chapter 6 (Serious drug offences)—see section 601.

**transport**, for chapter 6 (Serious drug offences)—see section 600.

## Schedule 1 Consequential amendments

(see s 3)

### Part 1.1 Bail Act 1992

#### [1.1] Section 9C heading

*substitute*

#### 9C Bail for murder and certain serious drug offences

#### [1.2] Section 9C (1)

*substitute*

- (1) This section applies to a person accused of—
  - (a) murder; or
  - (b) an offence against any of the following provisions of the Criminal Code, chapter 6 (Serious drug offences):
    - (i) section 603 (1) (which is about trafficking in a large commercial quantity of a controlled drug);
    - (ii) section 607 (1) (which is about manufacturing a large commercial quantity of a controlled drug for selling);
    - (iii) section 616 (1) (which is about cultivating a large commercial quantity of a controlled plant for selling);
    - (iv) section 619 (1) (which is about selling a large commercial quantity of a controlled plant);
    - (v) section 622 (1) (which is about supplying etc a commercial quantity of a controlled drug to a child for selling);

(vi) section 624 (1) (which is about procuring a child to traffic in a commercial quantity of a controlled drug).

*Note* A reference to an offence against a Territory law includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

**[1.3] Schedule 1, part 1.2, new items 3 to 19**

*insert*

- |    |         |  |
|----|---------|--|
| 3  | 603 (3) | trafficking in commercial quantity of controlled drug  |
| 4  | 603 (5) | trafficking in trafficable quantity of cannabis  |
| 5  | 603 (7) | trafficking in controlled drug other than cannabis   |
| 6  | 607 (3) | manufacturing commercial quantity of controlled drug for selling                                   |
| 7  | 607 (5) | manufacturing controlled drug for selling  |
| 8  | 610 (1) | selling large commercial quantity of controlled precursor for manufacture of controlled drug       |
| 9  | 610 (3) | selling commercial quantity of controlled precursor for manufacture of controlled drug             |
| 10 | 611 (1) | manufacturing large commercial quantity of controlled precursor for manufacture of controlled drug |
| 11 | 611 (3) | manufacturing large commercial quantity of controlled precursor for selling                        |
| 12 | 611 (5) | manufacturing commercial quantity of controlled precursor for manufacture of controlled drug       |

**Schedule 1** Consequential amendments  
**Part 1.2** Children and Young People Act 1999

Amendment [1.4]

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13	611 (7)	manufacturing commercial quantity of controlled precursor for selling
14	612 (1)	possessing large commercial quantity of controlled precursor
15	612 (3)	possessing commercial quantity of controlled precursor
16	616 (3)	cultivating commercial quantity of controlled plant
17	619 (3)	selling commercial quantity of controlled plant
18	622 (3)	supplying etc controlled drug to child for selling
19	624 (4)	procuring child to traffic in controlled drug
20	625 (1)	supplying etc controlled drug (other than cannabis) to child
21	639	concealing etc property derived from drug offence

**[1.4] Schedule 1, part 1.3, items 2 and 3**

*omit*

**Part 1.2 Children and Young People Act 1999**

**[1.5] Section 47 (2) (a) (ii)**

*after*

dependence

*insert*

or controlled drug

**[1.6] Section 332 (1) (a) (ii)**

*after*

dependence

*insert*

or controlled drug

**[1.7] Section 333 (1) (c)**

*after*

dependence

*insert*

or controlled drug

**[1.8] Dictionary, new definition of *controlled drug***

*insert*

*controlled drug*—see the Criminal Code, section 600.

## **Part 1.3 Drugs of Dependence Act 1989**

**[1.9] New section 3AA**

*after section 3, insert*

**3AA Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offence against this Act (see Code, pt 2.1):

- s 162 (Cultivation of 1 or 2 cannabis plants)

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**[1.10] Section 160 (1), definitions of *commercial quantity* and *trafficable quantity***

*omit*

**[1.11] Section 161 (1) and (2), penalty**

*substitute*

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

**[1.12] Section 161 (4)**

*omit*

**[1.13] Section 162**

*substitute*

**162 Cultivation of 1 or 2 cannabis plants**

- (1) A person commits an offence if the person cultivates 1 or 2 cannabis plants.

Maximum penalty: 1 penalty unit.

- (2) In this section:

*artificially cultivate* means—

- (a) hydroponically cultivate; or

(b) cultivate with the application of an artificial source of light or heat.

*cultivates* has the meaning given in the Criminal Code, section 615 but does not include artificially cultivate.

**[1.14] Section 163**

*omit*

**[1.15] Section 164 (2) and (3), penalty**

*substitute*

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

**[1.16] Section 164 (6) to (9)**

*omit*

**[1.17] Section 165**

*omit*

**[1.18] Section 167 heading**

*substitute*

**167 False representation to obtain prescription**

**[1.19] Section 167 (1) to (4)**

*omit*

**[1.20] Section 167**

*renumber subsections when Act next republished under Legislation Act*

**[1.21] Section 171A (7), definition of *simple cannabis offence*, paragraph (a)**

*substitute*

- (a) an offence against section 162 (Cultivation of 1 or 2 cannabis plants); or

*Note* Section 162 does not cover artificial cultivation of cannabis plants.

**[1.22] Section 171B (1)**

*after*

Act

*insert*

or another Territory law

**[1.23] Section 171B (2)**

*after*

*Drugs of Dependence Act 1989*

*insert*

/Criminal Code, chapter 6 (Serious drug offences)\*

**[1.24] Section 171B (2)**

*omit*

that Act

*substitute*

the *Drugs of Dependence Act 1989*

**[1.25] Section 171B (3), definition of *relevant person***

*after*

this Act

*insert*

or the Criminal Code, chapter 6 (Serious drug offences)

**[1.26] Section 174 (1), definition of *offence***

*after*

this Act

*insert*

or the Criminal Code, chapter 6 (Serious drug offences)

**[1.27] Section 182, new definition of *chapter 6 substance***

*insert*

*chapter 6 substance* means any of the following within the meaning of the Criminal Code, chapter 6:

- (a) a controlled drug;
- (b) a controlled plant;
- (c) a controlled precursor.

**[1.28] Section 183**

*after*

this Act

*insert*

and the Criminal Code, chapter 6 (Serious drug offences)

**[1.29] Section 184 (1) and (2)**

*omit*

believes

*substitute*

suspects

**[1.30] Section 186 (1) and (2)**

*omit*

believes

*substitute*

suspects

**[1.31] Section 187 (1), new definition of *issuing officer***

*insert*

***issuing officer*** means—

- (a) a judge, the registrar or a deputy registrar of the Supreme Court; or
- (b) a magistrate; or
- (c) the registrar, or a deputy registrar, of the Magistrates Court authorised, in writing, by the Chief Magistrate to be an issuing officer for this section.

**[1.32] Section 187 (2)**

*omit*

a magistrate

*substitute*

an issuing officer

**[1.33] Section 187 (2)**

*omit*

the magistrate

*substitute*

the issuing officer

**[1.34] Section 187 (3)**

*omit*

a magistrate

*substitute*

an issuing officer

**[1.35] Section 187 (3)**

*omit*

the magistrate

*substitute*

the issuing officer

**[1.36] Section 187 (4)**

*omit*

A magistrate

*substitute*

An issuing officer

**[1.37] Section 187 (4)**

*omit*

the magistrate

*substitute*

the issuing officer

**[1.38] Section 187 (5)**

*omit*

A magistrate

*substitute*

An issuing officer

**[1.39] Section 190 (1) and (2)**

*omit*

a drug of dependence or prohibited substance

*substitute*

a drug of dependence, prohibited substance or chapter 6 substance

**[1.40] Section 193A, new definition of *chapter 6 substance***

*insert*

***chapter 6 substance*** means any of the following within the meaning of the Criminal Code, chapter 6:

- (a) a controlled drug;
- (b) a controlled plant;
- (c) a controlled precursor.

**[1.41] Section 193A, definition of *seized substance***

*substitute*

*seized substance* means a substance seized under division 11.3 or another Territory law.

**[1.42] Section 193D (1)**

*omit*

against this Act

**[1.43] Section 193E (3) and (6)**

*omit*

against this Act

**[1.44] Section 193F (3) (e), (f) and (g)**

*omit*

against this Act

**[1.45] Section 194 (2)**

*omit*

a drug of dependence or prohibited substance

*substitute*

a drug of dependence, prohibited substance or chapter 6 substance

**[1.46] Section 195**

*omit*

a drug of dependence or a prohibited substance

*substitute*

a drug of dependence, prohibited substance or chapter 6 substance

**[1.47] Section 197 (2)**

*omit*

a drug of dependence or prohibited substance

*substitute*

a drug of dependence, prohibited substance or chapter 6 substance

**[1.48] Schedule 1**

*omit*

## Part 1.4 Listening Devices Act 1992

**[1.49] Section 2, definition of *defined offence*, paragraph (b)**

*substitute*

- (b) an offence against any of the following provisions of the Criminal Code:
- (i) section 603 (8) (which is about trafficking in cannabis);
  - (ii) section 610 (5) (Selling controlled precursor for manufacture of controlled drug);
  - (iii) section 611 (9) or (10) (Manufacturing controlled precursor for manufacture of controlled drug);
  - (iv) section 613 (Supplying substance, equipment or instructions for manufacturing controlled drug);
  - (v) section 620 (Supplying plant material, equipment or instructions for cultivating controlled plant);
  - (vi) section 625 (4) (Supplying controlled drug to child);

- (vii) section 640 (Receiving property directly derived from drug offence); or
- (c) an offence against the *Drugs of Dependence Act 1989*, section 164 (Sale or supply).

## **Part 1.5 Prostitution Act 1992**

### **[1.50] Section 6 (1), definition of *disqualifying offence*, paragraph (a) (iv) and (v)**

*substitute*

- (iv) the Criminal Code, chapter 6 (Serious drug offences); or

## **Part 1.6 Rehabilitation of Offenders (Interim) Act 2001**

### **[1.51] Section 9 (2) (j) to (m)**

*substitute*

- (j) an offence against the Criminal Code, chapter 6 (Serious drug offences) other than the following provisions:
  - (i) section 603 (8) (which is about trafficking in cannabis);
  - (ii) section 616 (8) (which is about cultivating a cannabis plant for selling);
  - (iii) section 618 (Cultivating controlled plant);
  - (iv) section 619 (8) (which is about selling a cannabis plant);

### **[1.52] Section 9 (2)**

*renumber paragraphs when Act next republished under Legislation Act*

## Part 1.7 Victims of Crime (Financial Assistance) Act 1983

### [1.53] Section 2, definition of *serious crime*, paragraph (c)

*substitute*

- (c) an offence against the Criminal Code, chapter 6 (Serious drug offences) other than section 618 (Cultivating controlled plant);
- 

### Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 24 June 2004.

**2 Notification**

Notified under the Legislation Act on 6 September 2004.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Criminal Code (Serious Drug Offences) Amendment Bill 2004, which was passed by the Legislative Assembly on 17 August 2004.

Acting Clerk of the Legislative Assembly

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